




State of Wisconsin


LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**


Date Transfer Requested: 01/02/2014 (Per: GMM)

Compile Draft – Appendix D

A  The 2013 drafting file for
LRB-3930

C  The 2013 drafting file for
LRB-3939

B  The 2013 drafting file for
LRB-3938

D  The 2013 drafting file for
LRB-3948

This file has been copied/added to the drafting file for

2013 LRB-4038

2013 DRAFTING REQUEST

Bill

Received: **1/9/2014** Received By: **fknepp**
Wanted: **As time permits** Same as LRB:
For: **Children and Families 261-8678** By/Representing: **Kimberly Liedl**
May Contact: Drafter: **fknepp**
Subject: **Public Assistance - fdshre(SNAP)** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **kimberly.liedl@wisconsin.gov**
Carbon copy (CC) to: **pam.kahler@legis.wisconsin.gov**
fern.knepp@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Eliminate Adm. Rules DCF chapters 110 and 121

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	fknepp 1/14/2014	evinz 1/14/2014		_____			
/1			jmurphy 1/14/2014	_____	srose 1/14/2014		

FE Sent For:

<END>

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Bill

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Instructions:

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1/2	fknepp	h e l v 1/14/14	h e l v 1/14/14				

FE Sent For:

<END>

Knepp, Fern

From: Malaise, Gordon
Sent: Tuesday, January 07, 2014 5:40 PM
To: Kahler, Pam; Knepp, Fern; Shea, Elisabeth
Subject: FW: Administrative rule bill
Attachments: DCF Right the Rules Changes for Drafting.doc

Pam, Fern, and Lis:

Attached are some Right the Rules requests from DCF. Chapters 110 and 121 look like Public Assistance drafts and ch. 54 looks like a Child-Placing Agency draft. Chapter 202, relating to child care certification, could go either way as certification provisions are found in both chs. 48 and 49.

Good experience for someone who hasn't done many right the rules drafts yet. ☺

Gordon

From: Liedl, Kimberly - DCF [<mailto:Kimberly.Liedl@wisconsin.gov>]
Sent: Friday, January 03, 2014 5:16 PM
To: Malaise, Gordon
Cc: Buschman, Sara - DCF
Subject: Administrative rule bill

Hi, Gordon, here is the beginning of our drafting instructions for our admin rule change bill. Please let me know if you have any questions. We will send the rest of the changes early next week.

Thanks and have a good weekend,
Kimber

Kimberly Liedl
Legislative Liaison
Department of Children and Families

201 East Washington Avenue
Madison, WI 53703
T: 608.261.8678
E: kimberly.liedl@wisconsin.gov

DCF Right the Rules Changes

1. Eliminate DCF Chapter 110, transitional jobs for low-income adults

2. Eliminate DCF Chapter 121, public assistance record retention

3. Update DCF 202 to reflect Milwaukee County child provider services unit

DCF 202 has not been updated to reflect the establishment of the department administered child provider services unit in Milwaukee County. Several changes are necessary to resolve the mismatch between the statute and the rule. These changes will clarify authority for the department and providers.

1. Amending the definition in DCF202.02 to include the state administered unit in Milwaukee County will conform the rule to the statutes:

DCF 202.02 Definitions. In this chapter:

(1) "Agency" has the same meaning as "county or tribal agency."

(4) "County or tribal agency" means a county department of social services established under s. 46.215 or 46.22, Stats., a county department of human services established under s. 46.23, Stats., the child care provider services unit established under s. 48.826, or a tribal agency.

49.826 Administration of child care provider services in certain counties.

(1) DEFINITIONS. In this section:

(a) "County" means a county having a population of 500,000 or more.

(b) "Department" means the department of children and families.

(c) "Secretary" means the secretary of children and families.

(d) "Unit" means the child care provider services unit.

2. Amend the appeals language to clarify that any appeal of an action by the child care provider services unit is governed by Wis. Stat. Chapter 227, as it is an action of a state agency. County decisions are appealable under Chapter 68.

DCF 202.06 Certification denial.

(4) If a county or tribal agency denies, suspends, revokes or refuses to renew a certification, the county or tribal agency shall notify the child care operator in writing and give reasons for the action. The action is reviewable pursuant to ch. 68, Stats., which provides for administrative review of the decisions of local agencies. Tribal

agencies shall use an appeal process equivalent to the process in ch. 68, Stats. Decisions by the child care provider services unit in Milwaukee County are reviewable pursuant to ch. 227, Stats.

4. Modify DCF 54 to reflect LAB audit recommendation: application submission deadline

LAB audited the department's oversight of Child Placing Agencies (LAB REPORT 13-15, October 2013). One recommendation in the report is that DCF "revise DCF 54.02(3)(d), Wis. Adm. Code, to be consistent with s. 48.66(5), Wis. Stats., by requiring child-placing agencies to submit their applications at least 30 days prior to the continuation date;"

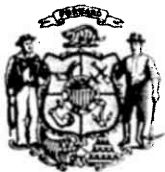
DCF 54.02 Organization and administration.

(d) Subsequent applications shall be submitted to the department:

1. At least ~~3 weeks~~ 30 days prior to the ~~expiration~~ continuation date of the current licensing.
2. When an additional office is to be opened.
3. When a new program subject to licensing is to be initiated.
4. When the geographic area served is to be extended.
5. When the address of the agency is to be changed.
6. When the name of the agency is to be changed.

48.66 Licensing duties of the department.

(5) A child welfare agency, group home, child care center, or shelter care facility license, other than a probationary license, is valid until revoked or suspended, but shall be reviewed every 2 years after the date of issuance as provided in this subsection. **At least 30 days prior to the continuation date** of the license, the licensee shall submit to the department an application for continuance of the license in the form and containing the information that the department requires. If the minimum requirements for a license established under s. 48.67 are met, the application is approved, the applicable fees referred to in ss. 48.68 (1) and 48.685 (8) are paid, and any forfeiture under s. 48.715 (3) (a) or penalty under s. 48.76 that is due is paid, the department shall continue the license for an additional 2-year period, unless sooner suspended or revoked. If the application is not timely filed, the department shall issue a warning to the licensee. If the licensee fails to apply for continuance of the license within 30 days after receipt of the warning, the department may revoke the license as provided in s. 48.715 (4) and (4m) (b).



State of Wisconsin
2013 - 2014 LEGISLATURE

In 10-2014

to DA if possible



LRB-3948/?

FFK:.....

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PMNR

lee

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 AN ACT *gen cat* ...; relating to: rule-making procedures and eliminating rules
2 promulgated by the Department of Children and Families related to retaining
3 public assistance case records and the transitional jobs demonstration project.

Analysis by the Legislative Reference Bureau

TREATMENT OF ADMINISTRATIVE RULES

The transitional jobs demonstration project, under which the Department of Children and Families (DCF) provides a wage subsidy to an employer who employs an individual who is at least 21 but not more than 64 years of age, is ineligible for Wisconsin Works (W-2), has an annual household income that is below 150 percent of the poverty line, is unemployed for at least four weeks, and is not eligible to receive unemployment insurance benefits, was repealed on July 1, 2013. This bill eliminates rules DCF was required to promulgate to operate the transitional jobs demonstration project.

Under current DCF rules, a county, tribal, or W-2 agency that contracts with DCF to administer one or more public assistance programs (income maintenance agency) is required to retain certain items used to verify information related to a public assistance case for certain amounts of time. For example, under current DCF rules, an income maintenance agency must retain items to verify an applicant's social security number, birth information, alien status, and medicare enrollment, if required to determine eligibility for public assistance, while the public assistance case is open. Current DCF rules also provide the conditions under which original case records that are copied in microfilm reproduction, optical disk, or electronic

format may be destroyed. Finally, current DCF rules require that destruction of public assistance records must be done in a manner that make the records unreadable. This bill eliminates DCF's rules related to retaining public assistance case records.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1

SECTION 1. Ch. DCF 110 of the administrative code is repealed.

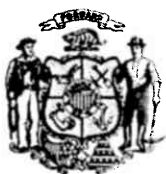
2

SECTION 2. Ch. DCF 121 of the administrative code is repealed.

3

(END)

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Ins
2-3



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2176/P2

.....

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: rulemaking procedures.

Analysis by the Legislative Reference Bureau

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must

publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

INS 1 **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:

2-1 2 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
3 227.265 affect the same unit of the Wisconsin administrative code without taking
4 cognizance of the effect thereon of the other rules and if the legislative reference
5 bureau finds that there is no mutual inconsistency in the changes made by each such
6 rule, the legislative reference bureau shall incorporate the changes made by each
7 rule into the text of the unit and document the incorporation in a note to the unit.
8 For each such incorporation, the legislative reference bureau shall include in a
9 correction bill a provision formally validating the incorporation. Section 227.27 (2)
10 is not affected by printing decisions made by the legislative reference bureau under
11 this paragraph.

12 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

13 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
14 administrative code a note explaining any change made under par. (b) or (bm).

15 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

16 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
17 apply to any change made by the legislative reference bureau under par. (b) or (bm).

18 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

19 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
20 record of each change made under par. (b) or (bm).

1 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

2 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
3 of each change made under par. (b) or (bm).

4 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
5 is amended to read:

6 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
7 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
8 preceding register, including emergency rules filed under s. 227.24 (3).

9 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
10 is amended to read:

11 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
12 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
13 modified under s. 227.265, in accordance with sub. (3) (e) 1.

14 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

15 35.93 (3) The legislative reference bureau shall compile and deliver to the
16 department for printing copy for a register which shall contain all the rules filed
17 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
18 preceding issue of the register was made and those executive orders which are to be
19 in effect for more than 90 days or an informative summary thereof. The complete
20 register shall be compiled and published before the first day of each month and a
21 notice section of the register shall be compiled and published before the 15th day of
22 each month. Each issue of the register shall contain a title page with the name
23 "Wisconsin administrative register", the number and date of the register, and a table
24 of contents. Each page of the register shall also contain the date and number of the
25 register of which it is a part in addition to the other necessary code titles and page

1 numbers. The legislative reference bureau may include in the register such
2 instructions or information as in the bureau's judgment will help the user to correctly
3 make insertions and deletions in the code and to keep the code current.

4 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
5 Act 20, is amended to read:

6 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
7 appropriate chapters of the Wisconsin administrative code each permanent rule filed
8 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
9 and, for each chapter of the administrative code affected by a rule, do all of the
10 following:

11 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
12 20, is amended to read:

13 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
14 in accordance with the filing deadline for publication established in the rules
15 procedures manual published under s. 227.15 (7) or, in an end-of-month register
16 agreed to by the submitting agency and the legislative reference bureau, or, in the
17 case of a rule modified under s. 227.265, in the end-of-month register for the month
18 in which the bill modifying the rule is enacted.

19 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

20 227.01 (13) (intro.) "Rule" means a regulation, standard, statement of policy,
21 or general order of general application which has the effect of law and which is issued
22 by an agency to implement, interpret, or make specific legislation enforced or
23 administered by the agency or to govern the organization or procedure of the agency.
24 "Rule" includes a modification of a rule under s. 227.265. "Rule" does not include, and

1 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
2 otherwise meet the definition under this subsection, which:

3 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

4 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
5 as follows:

6 **SECTION 13.** 227.265 of the statutes is created to read:

7 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
8 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
9 Instead, the legislative reference bureau shall publish the repeal or modification in
10 the Wisconsin administrative code and register as required under s. 35.93, and the
11 repeal or modification shall take effect as provided in s. 227.22.

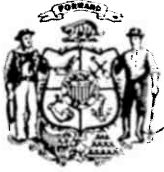
12 **SECTION 14.** 227.27 (2) of the statutes is amended to read:

13 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
14 as provided by s. 889.01, but this does not preclude reference to or, in case of a
15 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
16 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
17 of a rule shall also and in the same degree be prima facie evidence in all courts and
18 proceedings.

19 **SECTION 15. Effective dates.** This act takes effect on the day after publication,
20 except as follows:

21 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.
22 of the statutes takes effect on January 1, 2015.

23 (END)



State of Wisconsin
2013 – 2014 LEGISLATURE



LRB-3948/1
FFK:eev:jm

2013 BILL

1 **AN ACT** *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)
2 (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)
3 (intro.), 227.11 (2) (intro.) and 227.27 (2); and *to create* 13.92 (4) (bm) and
4 227.265 of the statutes; **relating to:** rule-making procedures and eliminating
5 rules promulgated by the Department of Children and Families related to
6 retaining public assistance case records and the transitional jobs
7 demonstration project.

Analysis by the Legislative Reference Bureau

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

BILL

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

TREATMENT OF ADMINISTRATIVE RULES

The transitional jobs demonstration project, under which the Department of Children and Families (DCF) provides a wage subsidy to an employer who employs an individual who is at least 21 but not more than 64 years of age, is ineligible for Wisconsin Works (W-2), has an annual household income that is below 150 percent of the poverty line, is unemployed for at least four weeks, and is not eligible to receive unemployment insurance benefits, was repealed on July 1, 2013. This bill eliminates rules DCF was required to promulgate to operate the transitional jobs demonstration project.

Under current DCF rules, a county, tribal, or W-2 agency that contracts with DCF to administer one or more public assistance programs (income maintenance agency) is required to retain certain items used to verify information related to a public assistance case for certain amounts of time. For example, under current DCF rules, an income maintenance agency must retain items to verify an applicant's social security number, birth information, alien status, and medicare enrollment, if required to determine eligibility for public assistance, while the public assistance case is open. Current DCF rules also provide the conditions under which original case records that are copied in microfilm reproduction, optical disk, or electronic format may be destroyed. Finally, current DCF rules require that destruction of public assistance records must be done in a manner that make the records unreadable. This bill eliminates DCF's rules related to retaining public assistance case records.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

1 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
2 227.265 affect the same unit of the Wisconsin administrative code without taking
3 cognizance of the effect thereon of the other rules and if the legislative reference
4 bureau finds that there is no mutual inconsistency in the changes made by each such
5 rule, the legislative reference bureau shall incorporate the changes made by each
6 rule into the text of the unit and document the incorporation in a note to the unit.
7 For each such incorporation, the legislative reference bureau shall include in a
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22 of each change made under par. (b) or (bm).

23 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
24 is amended to read:

BILL**SECTION 6**

1 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
2 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
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13 preceding issue of the register was made and those executive orders which are to be
14 in effect for more than 90 days or an informative summary thereof. The complete
15 register shall be compiled and published before the first day of each month and a
16 notice section of the register shall be compiled and published before the 15th day of
17 each month. Each issue of the register shall contain a title page with the name
18 "Wisconsin administrative register", the number and date of the register, and a table
19 of contents. Each page of the register shall also contain the date and number of the
20 register of which it is a part in addition to the other necessary code titles and page
21 numbers. The legislative reference bureau may include in the register such
22 instructions or information as in the bureau's judgment will help the user to correctly
23 make insertions and deletions in the code and to keep the code current.

24 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
25 Act 20, is amended to read:

BILL

1 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
2 appropriate chapters of the Wisconsin administrative code each permanent rule filed
3 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
4 and, for each chapter of the administrative code affected by a rule, do all of the
5 following:

6 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
7 20, is amended to read:

8 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
9 in accordance with the filing deadline for publication established in the rules
10 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register
11 agreed to by the submitting agency and the legislative reference bureau, or, in the
12 case of a rule modified under s. 227.265, in the end-of-month register for the month
13 in which the bill modifying the rule is enacted.

14 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

15 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,
16 or general order of general application which has the effect of law and which is issued
17 by an agency to implement, interpret, or make specific legislation enforced or
18 administered by the agency or to govern the organization or procedure of the agency.
19 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and
20 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
21 otherwise meet the definition under this subsection, which:

22 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

23 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
24 as follows:

25 **SECTION 13.** 227.265 of the statutes is created to read:

BILL

227.265 Repeal or modification of rules. If a bill to repeal or modify a rule is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply. Instead, the legislative reference bureau shall publish the repeal or modification in the Wisconsin administrative code and register as required under s. 35.93, and the repeal or modification shall take effect as provided in s. 227.22.

SECTION 14. 227.27 (2) of the statutes is amended to read:

227.27 (2) The code shall be prima facie evidence in all courts and proceedings as provided by s. 889.01, but this does not preclude reference to or, in case of a discrepancy, control over a rule filed with the legislative reference bureau ~~or the secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy of a rule shall also and in the same degree be prima facie evidence in all courts and proceedings.

SECTION 15. Ch. DCF 110 of the administrative code is repealed.

SECTION 16. Ch. DCF 121 of the administrative code is repealed.

SECTION 17. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1. of the statutes takes effect on January 1, 2015.

(END)